

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

GNANA M. CHINNIAH, <u>et al.</u>,	:	
Plaintiffs	:	No. 1:15-cv-02240
	:	
v.	:	(Judge Kane)
	:	
EAST PENNSBORO TOWNSHIP, <u>et al.</u>,	:	(Magistrate Judge Mehalchick)
Defendants	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Before the Court is the Report and Recommendation of Magistrate Judge Mehalchick, recommending that Defendants' Federal Rule of Civil Procedure 12(b)(6) motions to dismiss be granted. (Doc. No. 71.) The Court will adopt the Report and Recommendation in its entirety.

On November 23, 2015, Plaintiffs Gnana M. Chinniah and Suganthini Chinniah filed a civil rights complaint pursuant to 42 U.S.C. §§ 1983 and 1985 for, inter alia, violations of the First, Fourth, and Fourteenth Amendments.¹ (Doc. No. 1.) On August 10, 2016, Magistrate Judge Mehalchick issued a Report and Recommendation, recommending that this Court: (1) grant Defendants' four separate motions to dismiss (Doc. Nos. 22, 36, 40, 43); (2) dismiss with prejudice Plaintiffs' access to courts, equal protection, illegal search, and procedural due process claims; and (3) dismiss without prejudice Plaintiffs' retaliation, Section 1985, and state law claims.

On August 24, 2016, Plaintiffs filed objections to the Report and Recommendation. (Doc. Nos. 72, 73.) In their objections, Plaintiffs challenge: whether Magistrate Judge

¹ Plaintiffs' complaint names the following Defendants: East Pennsboro Township, Jeffrey S. Shultz, Karen Dunkle, James Hertzler, John Kuntzelman, Christopher Underhill, the Law Offices of Hartman Underhill & Brubaker, Joshua Autrey, Jeffrey Conrad, the Law Offices of Clymer Musser & Conrad, the Cumberland County Tax Claim Bureau, and the Cumberland County Housing and Redevelopment Authorities. (Doc. No. 1.)

Mehalchick drew all reasonable inferences from the complaint in the light most favorable to Plaintiffs (Doc. No. 73 ¶¶ 1, 4, 5-6, 9); whether the complaint adequately alleged that Christopher Underhill, the Law Offices of Hartman Underhill & Brubaker, Joshua Autrey, Jeffrey Conrad, and the Law Offices of Clymer Musser & Conrad are state actors under Section 1983 (*id.* ¶ 4); whether the doctrine of collateral estoppel applies (*id.* ¶¶ 3, 7-8); and whether the complaint adequately alleged violations of Plaintiffs' Fourth Amendment right to be free from unreasonable searches and First Amendment right of access to the courts (*id.* ¶¶ 6, 9). Two responses in opposition to Plaintiffs' objections were filed on September 6, 2016. (Doc. Nos. 74, 75.) Plaintiffs filed a reply brief on September 16, 2016. (Doc. No. 77.)

The Court finds that Magistrate Judge Mehalchick correctly and comprehensively addressed the substance of Plaintiffs' objections in the Report and Recommendation. (Doc. No. 71); *Ohler v. Lamas*, 542 F. App'x 205, 207 (3d Cir. 2013). The Court will not write separately to address Plaintiffs' objections. **ACCORDINGLY**, upon independent review of the record and applicable law, on this 29th day of September 2016, **IT IS HEREBY ORDERED THAT:**

1. Magistrate Judge Mehalchick's Report and Recommendation (Doc. No. 71), is **ADOPTED**;
2. Defendants' motions to dismiss (Doc. Nos. 22, 36, 40, 43) are **GRANTED** as follows:
 - a. Plaintiffs' access to the courts, equal protection, illegal search, and procedural due process claims are **DISMISSED WITH PREJUDICE** for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6);
 - b. Plaintiffs' retaliation and 42 U.S.C. § 1985 conspiracy claims are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6);
 - c. All state law claims are **DISMISSED WITHOUT PREJUDICE** to Plaintiffs' ability to refile these claims in state court pursuant to 28 U.S.C. § 1367(c)(3);

3. Plaintiffs' are given thirty (30) days leave to amend their complaint and to re-assert their remaining claims in accordance with Rule 8(d)(1) of the Federal Rules of Civil Procedure;
4. Plaintiffs' motion for reconsideration of this Court's order denying recusal (Doc. No. 46), is **DENIED**; and
5. The above-captioned action is referred back to Magistrate Judge Mehalchick for further pre-trial management.

s/ Yvette Kane

Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania